

R E M A R K S

Claims 1, 4 and 9 currently remain in the application. Claims 5-8 and 10 have been withdrawn as non-elected claims, claims 2 and 3 are canceled and claims 1, 4 and 9 are herein amended.

Claims 1 and 9 were rejected under 35 U.S.C. 102 as being anticipated by Komma in Paragraph 3 of the Official Letter. In view of the reason for rejection by the Examiner, claims 1 and 9 are herein amended by incorporating the limitations of claims 2 and 3, that is, by further requiring the presence of a second phase shifter inserted between said second polarizer and said light-receiving lens and that said first phase shifter and said second phase shifter each serve to shift the phase by $3/8-5/8$ with respect to the wavelength.

By rejecting claim 3 in Paragraph 5 of the Official Letter, the Examiner has effectively stated that this further limitation would be obvious in view of Komma, saying that it would have been an obvious design choice within the skill of a person of ordinary skill in the art. Applicant respectfully requests that the Examiner reconsider this statement for the following reason.

The Examiner must be aware of the basic structural difference between Komma and devices according to the rejected claims in that the incident light beam passes Komma's quarter-wave plate both before and after it is reflected by the information storage medium 5 but the incident light beam according to the present invention passes each phase shifter only once. The phase shift that is effected by the passage of light through each of the shifters according to this invention is selected such that the difference in quantity of light which is eventually detected will be made large between a situation where the light is reflected from a mirror-like surface and another situation where the light is reflected from an ordinary reflecting material. By contrast, Komma chooses the use a quarter-wave plate for a different purpose which is stated to be that of generating diffracted light on the optical path after the reflection from the information storage medium 5. In other words, Komma is constrained to use a phase shifter for shifting the phase by $1/4$ wavelength. If Komma replaced his quarter-wave plate with a phase shifter for shifting by $3/8-5/8$ wavelengths, Komma's stated purpose would not be achieved. In other words, Komma does not have the choice (design choice or otherwise) to replace his quarter-wave plate with a phase-shifter according to claim 1, 4 or 9 of the present invention. Conversely, if a quarter-wave plate were used in place of the phase shifter of the present invention, the stated purpose of the present invention would not be

achieved. In summary, neither Komma nor the inventors of the present invention had the kind of "design choice" mentioned by the Examiner in the Official Letter.

Claim 4 is a dependent claim now depending from amended claim 1 and hence should be allowable as claim 1 from which it depends.

In summary, it is believed that the present Amendment is totally responsive to the Office Action and hence that the application is now in condition for allowance.

Respectfully submitted,



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